



**Tax compliance risk management:
Guidance for LBS customers and staff**

**Review of Links with Large Business
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Contents

[Foreword](#)

[1. Introduction](#)

[2. How do we assess tax compliance?](#)

[3. A 'Low Risk' customer relationship](#)

[4. A 'Higher Risk' customer relationship](#)

[5. Handling tax issues for all customers](#)

[6. Our tax professionals](#)

[Annex A. Illustration of the risk management process](#)

[Annex B. The business overview template](#)

[Annex C. The risk review templates](#)

[Annex D. Business risk review – assessment indicators](#)

[Annex E. Illustrations and examples](#)

[Annex F. Illustration of an Action Plan](#)

Foreword

This guidance sets out the principles under which the Large Business Service will deliver tax compliance risk management through the [framework](#) we announced at Budget 2007, as part of our commitment to delivering the 2006 Review of Links with Large Business.

We have valued the help of our private sector partners in developing the new framework and this guidance. We want our customers to understand and respect our new approach so that, in turn, we can encourage and support those customers who want to have a low risk relationship, and give them greater certainty in their tax affairs.

The starting point is to build a relationship with our customers founded on trust and transparency; transparency through a shared understanding of our customers' tax compliance risk management, and trust in their explanations, governance and systems. We recognise that our customers put great effort into managing tax compliance. We want to base our work on that and not duplicate effort. We want to be able to respond to them appropriately, to create fairness and consistency for all our customers.

We all have a role in taking forward the new relationship. We are refreshing our training to ensure we have the right professional and technical skills, and a better understanding of our customers' commercial environment. To be successful, we need business to work with us, discussing issues in real time, being open about the underlying risks, and helping us focus on early resolution. We are committed to being more transparent than before about how we take decisions.

This approach to tax compliance risk is a significant step for both HMRC and business. We are committed to implementing our new risk framework over the coming months, but we recognise that a real change in the nature of our relationship with business will take longer to embed. We will continue to work with our customers to develop the new approach.

By working together we can deliver tangible benefits for both HMRC and business, and make a positive difference to the UK's business tax environment.

Freda Chaloner
Acting Director, Large Business Service

1. Introduction

How we see our customers

We believe that the majority of our customers want to pay the right amount of tax at the right time. For large businesses, managing tax risk to ensure compliance with the law can be complex and we recognise the considerable investment in systems and governance our customers make to secure this.

We want to work with our customers to understand how they manage their tax planning and compliance within the wider commercial context in which they operate.

We don't want our interventions to duplicate unnecessarily the work that tax departments and their advisers do to manage tax compliance risks.

Wherever possible we want to rely on a customer's application of the law to their business, and on their systems and governance, and to identify and resolve quickly any differences of view.

We respect our customers' contribution to the UK economy and want to build a partnership with our customers and their advisors through a relationship that is open and transparent, based on mutual respect and trust.

What does this mean in practice?

Chapter 2 describes how we will work with a customer to understand the potential sources of tax compliance risk and how these are being managed.

Chapter 3 describes the relationship we want to have with a 'low risk' customer. Where we have confidence that the tax figures provided by these customers are what we would expect, we will not normally intervene. We see these businesses as 'low risk'.

Chapter 4 describes the relationship we will have with 'customers we see as posing a higher risk'. We will aim to work in partnership with the customer to help them improve their tax compliance. Where we believe that a customer is not managing its tax compliance adequately, or is repeatedly pushing at the boundary of the law, we will intervene quickly and intensively.

Chapter 5 describes how we will identify the most significant tax issues.

Chapter 6 describes what we are doing to raise our commercial awareness and enhance our professional skills.

2. How do we assess tax compliance?

This chapter describes what we mean by a tax compliance risk and how we will work with a large business customer to understand and assess how it is managing tax compliance.

Sources of tax compliance risk

A tax compliance risk is a risk that a customer will not pay the right amount of tax or duty at the right time, or will fail to meet its responsibilities with regard, for example, to employees' benefits and pension entitlements, student loans and the National Minimum Wage.

A tax compliance risk may be an identified tax issue, where HMRC and the customer may not agree about a particular tax analysis set out in a return or declaration. Or it may be a less specific uncertainty about whether tax returns and declarations are correct which may lead to an issue being identified.

In March 2007 we acknowledged that risks to tax compliance can manifest themselves in different ways. They may be driven by external forces outside the control of either the customer or HMRC, or they may reflect decisions or actions by the customer.

Factors that can affect the level of risk

- the complexity of the international economy, rapid commercial and regulatory change, the impact of both UK and European tax law and of other tax administrations. This constantly shifting commercial environment, both in the UK and abroad, may lead to inconsistency and uncertainty in the tax function
- corporate tax strategies including the extent and nature of tax planning and the level of disclosure or co-operation with tax authorities
- complexity in corporate structures, the scale of business activity, governance and reliability of business systems and processes
- HMRC's ability to understand its customers' commercial environment and make sound and consistent decisions about tax risk
- the customer's ongoing relationship with HMRC.

The level of tax risk does not necessarily correspond to the amount of tax at stake. There could be wider reputational, regulatory, social and political issues which affect the significance of a risk for either business or HMRC. We will consider these and other factors such as the amount of tax at risk against the scale of the business, and the customer's tax compliance history and behaviour.

The risk assessment process

The risk assessment process will be led by the Client Relationship Manager (CRM) and will follow the five steps we described in Chapter 4 of HMRC Approach to Compliance Risk Management¹, developed in consultation with business and representative bodies. The process is illustrated at [Annex A](#).

Step 1 – Engagement with the customer

Our starting point will be our knowledge of the customer's compliance and payment history and our understanding of the business and its commercial environment. We will want to discuss with the customer the business developments, the tax strategy, the interdependency between the tax function and business operations and investments, and how tax compliance risks are perceived and managed. These conversations will inform our assessment of how well the customer is controlling the tax processes within the business.

The Client Relationship Manager (CRM) will want to maintain a level of engagement that creates and maintains relationship based on transparency and trust, which is proportionate to a customer's risk profile and the support they need to comply. We accept that not all customers will want this degree of engagement and, although we cannot insist on it, we consider open engagement the key to reducing tax compliance risk and costs.

The CRM will capture our knowledge of the business and compliance history in a Business Overview ([Annex B](#)) to ensure consistency and continuity of approach.

Steps 2 and 3 – Completing and Sharing the Risk Review with the customer.

The purpose of the Risk Review is, for each customer, to assess the potential sources of tax compliance risk across the business for each tax and duty, and how these are being managed so that we arrive at a mutual understanding of the residual tax risks and issues. The emphasis is on working with the customer to help them comply, and to have a low risk relationship. This is the central component of our risk assessment process.

The CRM is responsible for the Risk Review, completing the new Risk Review Template at [Annex C](#) (improved following consultation with business), assessing the business against the indicators in [Annex D](#), and then discussing this with the customer. There will be circumstances where the CRM may need to complete Risk Reviews for separate parts of the business, for example where individual UK entities are largely independent from other parts of the UK business and confidentiality rules will apply.

The Risk Review will cover the seven key areas that can impact on tax compliance (more detail on these can be found in Annex C and there are some illustrations and examples in [Annex F](#))

Inherent risks to tax compliance

- **change** (for example mergers, acquisitions, strategic, financial and organisational restructuring)
- **complexity** (for example complex commercial, legal and financial structures, large numbers of group companies, employees, VAT groups or tax and duty regimes to which the business is subject) and
- **boundary** issues (for example extent of a business' global exposure and level of cross-border and connected party transactions).

Behavioural risks to tax compliance

- **corporate governance** including transparency in its relations with HMRC;
- effective **delivery** (for example, whether systems and internal processes are sufficient for the business to meet its obligations); and

- the business [tax strategy](#).

These six factors influence the possibility that tax issues will arise.

We will also want to see how each of these factors affect the tax **contribution** a customer makes and whether this is what we might expect from the level of its economic activity and in comparison to its competitors.

The 'Inherent' sources of compliance risk will not determine whether we have a low risk relationship with the customer. What matters is how those risks are being managed and how they translate into the assessment of 'behavioural' ratings for governance, delivery and tax strategy ([Annex C](#)). A business with major inherent sources of risk can be seen by HMRC as low risk if, by its actions, it is minimising those risks and willing to be open about tax compliance and issues.

Different taxes and duties

We will assess the level of tax compliance risk for each tax and duty under each part of the risk review template and arrive at an assessment of the tax compliance risk management for each as well as an overall assessment for the business.

The implications of risk in one tax or duty on others will be considered, but assessing a customer as higher risk for one tax does not mean that they cannot be assessed as low risk for others. It does mean that we would not see the relationship as low risk overall unless there is an action plan in place to minimise the risks for that tax.

The CRM will ensure that the right tax specialists are involved. The extent of their involvement will depend on the level of confidence we have that different tax and duty risks are well managed. The analysis to support that view will only involve direct contact with the customer if the CRM decides there are still areas of potential tax risk taking into account HMRC strategic imperatives.

Our approach to risk assessment will aim to reduce compliance burdens by a 'joined-up' approach where the implications of a transaction, structure or system and attitudes will be considered together across all taxes. We will always try to avoid asking questions of the customer where they have already provided answers or the information is already available elsewhere, even if in relation to a different tax.

Tax Issues

Our engagement with the customer or the Risk Review may identify

- tax issues that may need to be addressed, for example, weaknesses or problems in the management of tax compliance risk, or transactions where our views on the tax result differ from the customer's
- issues relating to the customer's responsibilities such as statutory payments and National Minimum Wage or
- the need for further testing or assessment of potential tax issues.

As part of the Risk Review process, CRMs will keep their Sector Leaders informed on the status of current and emerging tax issues. This allows moderation across

the industrial sector and the LBS as a whole on the level and type of issues being considered and the resources needed to address them.

CRMs and Sector Leaders, in consultation with tax specialists, will ensure that the treatment of issues under consideration is consistent with the [Litigation and Settlement Strategy](#), either because they are significant issues in their own right or because there is a broader sector or regime risk of which an individual business is part. Issues that are identified but are not considered to need further action will be documented for information and audit purposes.

Step 4 – Agree an Action Plan

We have already published our approach to [Action Plans and a timetable for delivery](#). Where we identify tax issues or potential tax issues that need to be addressed, we will agree an Action Plan with the customer. This will ensure that there is mutual understanding of the issue and how it should be taken forward, and that it is resolved as quickly as possible.

Our aim will be to support the customer to have a low risk relationship with HMRC, since we assume this is what they want. We will aim to work with them to improve tax compliance risk management where weaknesses or problems have been identified. We want to work with our customers to resolve as many issues as possible in real-time, to minimise formal interventions in the future.

The CRM will agree three milestones with the customer. These are based on principles outlined within the Litigation and Settlement Strategy.

- Milestone 1:** Fact finding. This includes obtaining all the required information / documentation and / or carrying out any specific review.
- Milestone 2:** Review of the information. This includes consideration of the legislation, consultation with appropriate specialists and decisions on how to proceed.
- Milestone 3:** Discussions on resolution of the risk. This includes dialogue on moving the issue towards resolution or litigation.

The CRM will also agree the Action Plan with other stakeholders across HMRC if specialist input is needed, such as the Strategic Response Unit, Audit Service, our accountants, and technical specialists.

An example of a completed Action Plan is in [Annex E](#). Action plans will cover all taxes and duties. Shared Workspace may be the best way to manage this process but where Shared Workspace is not used, the CRM will share plans in a similar format or one that meets the same objectives.

Action Plans have a key role to play in facilitating co-operation and a clear focus on what needs to be done to resolve areas of significant tax uncertainty as quickly and efficiently as possible. We will be putting much more effort at the start of an intervention into working with the customer to understand the tax risk, the information needed to resolve it, how and when this can be provided, and the resources required. We would expect an issue to normally be resolved within 18 months if there is the will and drive from all involved.

There will be occasions on which it may not be possible to reach agreement. We will seek to move the issue to litigation to obtain certainty as soon as possible. Normally we would expect to be looking at this after about 18 months but it could be sooner where appropriate.

There will also be occasions where a customer does not stick to agreed timetables or is not prepared to agree an acceptable programme for fact finding and resolution. There will also be times, often for legal reasons, where a company feels unable to supply documents other than in response to a formal notice. In these circumstances we will use the various information powers we have to ensure that we have all the facts. If those powers do not elicit what we need, we will contemplate issuing closure notices so that matters can be resolved by the Tax Tribunals. We hope that this will only be necessary in a small proportion of cases. HMRC's powers are currently under review as one part of the [Review of Powers, Deterrents and Safeguards](#).

Step 5 – Review Risk Rating

There may be many reasons why a customer's tax risk profile can change. Therefore, whatever the current agreed risk rating, we will want to engage with a customer to keep up to date with business developments and their tax risk profile so that our overall view of risk for that business and its industrial sector remains appropriate. Maintaining our understanding of the business will also help to ensure that work we do on rulings and clearances as well as risk assessment is rooted in an up to date awareness of the customer's commercial context.

Our monitoring includes

- Gathering data from internal and external sources to examine trends and themes across trade and economic sectors.
- Reviewing formal and informal information shared or submitted to HMRC, to keep our understanding of the business current. Our Audit Service has tools that can support and provide comparative data across a business sector for VAT.
- Referring new and significant tax issues to Sector Leaders and tax specialists for advice.

Systematic monitoring enables us to examine apparently anomalous data and consider whether there are potential risks to tax compliance. Inconsistencies will be reviewed and resolved internally, if possible, before being discussed with the customer.

Timetable for Risk Reviews

Our aim this year is to discuss and agree a Risk Review with all LBS customers by 31 December 2007.

Where a Risk Review under previous arrangements has already been discussed and agreed with the customer there is no need to revisit it if the customer is content and it meets the new aspects of the Risk Review Framework.

Interface with Local Compliance (LC)

We aim to provide a joined up service across all taxes. Currently, most LBS customers have at least one tax or duty managed by LC which works against this. We have decided with LC that in future, the largest UK businesses will have all

their taxes and duties managed by LBS, and LC customers will have all their taxes and duties managed by LC.

This means that there will inevitably be some movement of customers between LBS and LC. LBS customers moving to LC will be allocated a Customer Manager who will undertake a similar role to the CRM and ensure that issues across all taxes and duties are co-ordinated.

We will work closely with LC to minimise disruption for these customers and ensure a smooth handover. We aim to complete the handover for most businesses by April 2008.

Any Risk Reviews already undertaken will remain in place. If a Risk Review has not yet been done, then the CRM will carry one out and share it with the customer by 31 December 2007, wherever possible working with the LC Customer Manager if one has already been appointed.

3. A 'Low Risk' customer relationship

Even the largest and most complex businesses can achieve a low risk relationship with HMRC.

In [Chapter 2](#) it described the Risk Review process and the sources of tax compliance risk that a business's tax department may be managing. The key issue – and at the heart of our new approach – is whether or not these sources of risk are being adequately managed by the customer.

It does not follow now – as it might have done in the past – that we will view our largest and most complex customers as higher risk, or our smallest large businesses as low risk. Tax can be one of the largest single outlays for many businesses, and we accept that our customers' priorities, interpretations of the law, and their conclusions about what tax is due, may diverge from ours.

Our views will be based on the level of confidence we have that the business has good governance and tax compliance risk management. It is the actions that our customers take to manage and minimise risks to tax compliance that matters; rather than the underlying size or complexity of the business.

A **low risk customer relationship** is one where we have a high level of confidence in a customer's

- openness
- systems and processes
- governance and judgment
- tax strategy

and trust the customer to keep us informed of significant tax issues.

A high level of confidence will depend on

- low incidence of recent tax disputes or errors
- high transparency about future tax strategy
- compliance with its statutory obligations
- a 'low risk' strategy for tax planning
- assurances about future tax compliance, systems and processes
- willingness and ability to resolve uncertainty before filing returns.

Our aim is to reduce the compliance burden for customers in low risk relationships and give them earlier certainty of their tax liabilities.

What do we mean by 'transparency'?

We want our relationship with a customer to be founded on mutual respect, trust and transparency.

There are many examples already of good relationships between the LBS and its customers. We know that mutual trust and respect cannot be built overnight, but we have learnt that the starting point is being transparent with each other. In HMRC we are committed to being much more transparent than before about how we take decisions, and areas of tax risk or uncertainty.

We will be seeking greater transparency from our customers

- on their tax strategies
- on tax issues
- in providing us with information on issues under discussion.

In return, we will be in a much better position to trust what our customers tell us, trust their systems and processes, and avoid unnecessary questions.

What do we mean by a 'low risk' tax strategy?

A 'low risk' strategy for tax planning is likely to have the following features:

- transactions or structures are entered into for business reasons and not mainly to avoid or mitigate tax, they have clear commercial purpose beyond tax planning, and will not have any additional, inserted or unnecessary steps intended to achieve a tax result
- commercially-driven transactions structured to achieve a particular tax outcome will be undertaken only if a high level of assurance is obtained that the tax analysis is correct and, where necessary, this analysis can be shared and our agreement sought
- in most years, innovative tax planning is not undertaken that relies on
 - new analysis of legislation
 - an analysis of new legislation that is not clearly agreed in published policy objectives or our guidance
 - existing analysis of legislation, but in circumstances producing a more advantageous tax outcome than previously applied
 - structured transactions with features requiring disclosure.

Where it is undertaken, we will be told and given full information to understand the nature, purpose and intended consequences of all steps.

- we will be told as early as possible, and preferably well before filing, of significant transactions where
 - there is difficulty or a high level of judgment needed to determine a preferred tax treatment
 - the transaction is structured to ensure a particular tax outcome
 - the tax analysis differs from our known views
 - there are a range of possible tax outcomes (for example, some transfer pricing issues or where the law or accounting principles are capable of more than one interpretation), and the chosen outcome is towards the most tax-advantageous end of the range

or alternatively these significant transactions will be the subject of a pre-transaction request for clearance where there is genuine uncertainty.

If a customer in a low risk relationship keeps us informed about significant tax issues, we will continue to see it as low risk even if we sometimes take a different view of the tax outcome and adjustments arise to the customer's tax liabilities.

Assessing Customer Relationships as Low Risk

Where, having considered the factors described here and in Chapter 2 and discussed them with the customer, a CRM considers that we have a low risk relationship with a customer, they should make the basis of their view clear, even if it is simply that there is no evidence to the contrary. It is important that our view and the basis on which it has been formed is shared with the customer so that they understand it and what is expected in the relationship.

What if there is insufficient evidence?

If the CRM does not have enough evidence or knowledge across all taxes and duties to draw a firm conclusion on the customer's risk profile, or there is uncertainty about the degree of systems assurance work, we will be guided by the nature of our current working relationship with that business and our key principle that

“HMRC believes that the majority of its customers want to pay the right tax at the right time....Where we assess the risk is low we will trust our business customers to make the right interpretation of tax law and to ensure that their systems and processes deliver right tax at right time”

To ensure that existing evidence has been properly reviewed CRMs should consult their [sector audit customer manager](#) who will comment on historic risks or systems shortfalls, or confirm that there is no information on file or the information held doesn't cast doubt on systems. Unless evidence exists to the contrary, CRMs will assume that internal processes and systems are sound.

This does not mean that for customers we see as low risk we should then pay no further attention to systems assurance. As part of the ongoing relationship with the customer, the CRM would still expect to discuss systems quality in real time. If it is agreed that systems assurance work would be helpful, then this should be carried out in partnership with the customer, utilising their own internal or external reviews where appropriate.

What are the benefits of a low risk relationship?

- Interventions instigated by HMRC will be the exception rather than the rule and we will only need to complete a full Risk Review every two to three years; this offers a high degree of certainty that we will not normally question returns and declarations and customers can predict their tax liabilities with greater accuracy.
- Our relationship will be founded on trust and transparency so that there are no surprises; we will trust our customers to manage their tax risks without the need for intervention from us. They will trust us to support their management of significant tax uncertainty.
- We will engage in a way that imposes as little burden as possible, to maintain an understanding of the customer's business and operations, and to keep abreast of their commercial developments and emerging tax uncertainties. We will provide help and advice where needed and where possible; many of our low risk customers will want and expect a regular dialogue with us and we will continue to resource this through our CRMs and tax specialists.
- We will not start formal enquiries to test the customer's systems or processes, or check whether transactions have been dealt with as we would expect, unless

- we need to carry out a check because of EU requirements, on behalf of other agencies, or to tell us whether particular regimes are working well. This may include activity not related to tax collection, for example to ensure that Customs and International Trade regimes and procedures are being adhered to
 - there is a need to verify third-party information or other intelligence or risk driven reviews
 - there is a clear and unambiguous error
 - there has been a major change, (for example, to business activities, systems or processes)
 - the law is unclear or developing or we have concerns that prevailing practice does not reflect our view of the law
 - we need to enquire into the facts to meet a request for advice
 - the customer has told us of a potentially contentious issue in advance
- We will assume that we will be told about significant new tax issues; we will not ask questions to test disclosure unless it is very clear that these have not been brought to our attention. We would normally expect to be able to deal with these new issues in real time or before filing deadlines, for example by being involved in mergers or acquisitions from an early stage so that we can discuss the amalgamation of business systems and processes. The judgments we make on the risk these new issues present will take account of our high degree of confidence in the customer's governance, systems and judgments (see [Chapter 5](#)).
 - Some businesses may not want to engage in real time but will prefer to disclose fully a tax uncertainty by the usual legal deadlines. Any uncertainty in the information provided would need to be resolved when returns are submitted and this means we may need to enquire.
 - We will normally assume, unless it is clearly not so, that the customer's judgment will match ours – although this may not be the case for transactions involving innovative tax planning or avoidance.
 - We will assume that lower tax outcomes have been chosen from a range of outcomes for valid reasons.
 - We will have a high degree of confidence in the quality of the information a customer provides to support clearance applications and other submissions (such as P11D dispensations); this means that we will be able to respond to most requests for clearances quickly and without the need to ask for further information.
 - Our confidence in a customer's judgment, governance and systems means that we will be able to agree a reduction in the analysis needed within the Corporation Tax computations and agree de-minimis levels for analysis of specific items such as repairs and renewals or subscriptions.
 - We will be able to focus compliance resource away from lower risk customers to higher risk customers including those competitors that seek to gain an unfair tax advantage through tax avoidance.

There will still be occasions when our view of the tax result will be different to the customer's and we may need to litigate a specific issue to resolve it. This will not affect the low risk relationship with the customer.

4. A 'higher risk' customer relationship

Where we believe that a customer is either not managing tax compliance risk adequately, or takes a position which, because of its innovative nature and/or its intended tax effect presents a significant risk we will deploy the full range of specialist resource across HMRC and work intensively with that customer to enable rapid reduction in their risk profile.

What customers who we do not regard as low risk can expect from HMRC

We expect that we already have 'low risk' relationships with up to 40 per cent of our customers, allowing considerable resource deployment to higher risk customers and issues.

Customers we see as higher risk can expect

- more regular risk reviews
- more interventions
- more in depth reviews of systems and processes
- more detailed and thorough investigation of tax issues by teams drawn from across HMRC
- use of information powers and litigation
- intensive projects to improve compliance.

We will target our interventions on those areas of highest tax risk and concentrate more resource on customers we see as higher risk. The levels of interaction will be more intensive and increase according to the scale and nature of the risks identified.

- **Risk Reviews** – there will generally be a need for far more regular dialogue. For the highest risk businesses it is likely that several meetings will be necessary each year, with full annual risk reviews.
- **Risk-based interventions** – we expect that regular intervention will be necessary. While we will strive to engage in real-time and to target our resources on the most significant tax issues so that we get to their heart more quickly, it may be less easy to provide certainty to customers in the timescales they might want. We may need to undertake more regular systems reviews, and require more comprehensive analysis in the Corporate Tax computations. It is more likely that we will want to test information submitted with a formal clearance application. If we are not confident that significant issues are being brought to us, or we are not getting full information, we will need to do more regular analysis and checking of our own.
- **New Approaches** – We have developed new ways of approaching significant tax issues, such as assembling task-forces of expertise across HMRC, carrying out detailed and in depth investigations with greater intensity and to faster timescales, obtaining legal advice earlier, and

maintaining momentum by using our information powers as appropriate. Where we believe that a customer's behaviour poses a serious tax risk we will engage directly at Board level to try to persuade that customer to change the behaviours that are generating those risks. A Board needs to be aware that contentious tax investigations and disputes are expensive and resource intensive. We will generally seek dialogue and offer a Board an alternative approach and will always support our customers in moving towards a low risk relationship. But in deciding how matters should be resolved, we will look at each issue on its own merits litigating where necessary in line with our published Litigation and Settlement Strategy.

There is a wide spectrum of higher risk customers including some with inadequate tax compliance for one tax, others with poor tax compliance risk management for various taxes, or others with high risk tax strategies. Even higher risk customers with the most complex businesses and structures can enjoy the benefits of a low risk relationship by modifying their behaviours and addressing the causes of their higher risk profile.

Our aim will be to work with the customer to improve the weaknesses we see in their tax compliance and encourage a low risk relationship. Our response will always be proportionate and targeted; it is not our intention to take up relatively insignificant issues. Wherever possible we will discuss and be transparent about any areas of tax uncertainty with our customers and provide them with the opportunity to explain or clarify points in order to avoid an intervention.

HMRC Powers Review

A consultation document concerning compliance checks is scheduled for publication in November. The detail of this is not yet finalised but in broad terms the overall aim is to establish a common compliance checking structure that will apply to all the main taxes. It is likely that the proposals will include powers that will facilitate the ways of working envisaged in the Review of Links with Large Business report published in November 2006. This should enable risks to be worked quicker and more efficiently with certainty being reached sooner than is currently the case.

Penalties

We may need to consider penalties where there are errors or omissions.

Sch 24 FA 2007 replaced the existing penalty regimes for incorrect returns, across a range of taxes (Income Tax, Capital Gains Tax, Corporation Tax, VAT, PAYE and National Insurance Contributions). Where an incorrect return is submitted by any person, the penalty calculation will depend initially on the "behaviour" that led to the error. Therefore

- Mistake despite taking reasonable care attracts no penalty.
- Failure to take reasonable care; maximum penalty 30 per cent of potential lost revenue.
- Deliberate understatement; maximum penalty 70 per cent of potential lost revenue
- Deliberate understatement, and concealed maximum penalty 100 per cent of potential lost revenue.

The maximum penalties can be significantly reduced if the taxpayer makes a disclosure of the error to HMRC, more so if this is unprompted. The

reduction depends on the quality of the disclosure and can eliminate any penalty for an unprompted disclosure of a careless error. Penalties for careless errors can also be suspended in certain circumstances.

The amount of penalty charged will be based on the amount of tax understated.

A new concept of the 'potential lost revenue' is introduced. Penalties can be charged even if additional liability is covered by group relief. And where there are losses, calculations of PLR will include any additional tax due as a result of amending a loss claim. Incorrect loss claims which have no immediate tax effect will be considered for penalties at a discounted rate.

It is expected that new penalties will apply to return periods starting on or after 1 April 2008, where the due date/filing date is on or after 1 April 2009. The existing separate regimes will continue to apply for earlier return periods.

Guidance as to the meaning of the new legislation will be published on or before March 31 2008. Additionally there will be guidance to explain how it will be applied operationally by LBS.

5. Handling tax issues for all customers

We want to focus our resources on the most significant tax issues. Our response to tax risk will be proportionate - we do not want to intervene for relatively insignificant tax issues. We will take account of the customer's risk profile when reaching judgments about the significance of potential tax issues.

We would encourage all our customers, regardless of their risk profile, to work with us in 'real time', so that we can support them in either achieving or retaining a low risk status and give them certainty in their tax affairs.

Early and open discussion of tax issues can avoid unnecessary post-filing enquiries. If a customer does not wish to address a potentially significant issue with us in 'real time', for whatever reason, we will enquire when the return is filed. Once the enquiry is open, we will set out an Action Plan for resolution.

Identifying and managing tax issues

Tax issues may emerge during the Risk Review, through our dialogue with customers, or from changes to legislation, the business environment or our monitoring and analysis. When new issues materialise they will be assessed against the business Risk Review to decide whether they are significant and whether they alter the existing risk profile or any Action Plans.

How we decide whether a tax issue is significant.

There are three factors that the CRM will take into account in judging the significance of a tax issue

- our confidence that the customer is treating it as we would expect
- the estimated monetary value
- the context in which the issue arises and whether there are wider impacts.

The CRM will use these factors to prioritise risks to ensure that our skilled resources are placed against the highest risks.

Our confidence that the tax result is what we would expect

This reflects the probability that there could be a different tax result. The CRM will take account of our assessment of the law and how it should apply to the issue. They will also take account of our confidence in the customer's tax governance, systems and processes and the tax judgments it makes.

Monetary Value

The National Audit Office report on the [Management of Large Business Corporation Tax](#), published in February 2007, agreed that there is considerable scope for us to redeploy our resources to more significant tax issues, reducing costs for some of our customers.

The Report highlighted that LBS had around 4,700 open corporation tax enquiries. Of these, nearly 60 per cent were for possible amounts of less than £500,000 – and amounted to less than one per cent of the total amount of money under enquiry. 98 per cent by value of the corporation tax under enquiry was

from issues with estimated amounts at stake of £1 million or more and 91 per cent was from issues involving £5 million or more.

We are monitoring the proportion of open significant tax issues and those with a higher estimated money value. We expect to see these proportions increase as we deploy more of our resource on the most significant tax issues and higher risk customers.

The context and impact

The CRM will take account of the scale of the tax issue in the context of the size of the business. They will also consider our responsibility to ensure that employers' statutory obligations are met with regard, for example, to student loans, statutory payments and the minimum wage, and that employees' benefit and pension entitlements are maintained.

The CRM will also take account of behaviour, for example whether tax avoidance or deliberate understatement is involved, and whether there are wider tax or sector implications that need to be considered.

Tax Avoidance

We will wish to test tax avoidance thoroughly and to understand tax planning in transactions. All customers can expect that particular [transactions or arrangements](#) will be the target of detailed investigation and the focus of more resource.

We have recently introduced a new process for dealing with avoidance schemes. Schemes which are substantially the same (for instance, rely on the same area of legislation) are assigned to a project team who direct and control work on all the instances of that scheme. While the tax at stake for an individual customer may be relatively low, we will consider the wider tax at risk under all known instances of that scheme when allocating resource. In order to ensure that customers are treated fairly and consistently, CRMs responsible for each instance of the scheme will work with the project team to identify any implementation issues alongside technical weaknesses. Where customers have implemented an avoidance scheme, they should therefore expect this to be considered as part of the wider view of similar schemes and understand that the decision on whether to settle or litigate will not be made by the CRM in isolation but will be made in partnership with other specialists within HMRC.

The new process is designed to ensure that instances of the same scheme are dealt with as quickly and as efficiently as possible. For those customers who do not provide information voluntarily, formal information powers will be used to ensure that the relevant facts are available to us before a settlement decision is made.

Instances of each scheme will be settled or litigated in line with the Litigation and Settlement Strategy on a consistent basis, having due regard to the particular facts of each case including whether it has been correctly implemented by that customer.

'Insignificant' tax issues

At 1 April 2007 roughly half of open issues had a relatively low economic value and overall impact and so were not significant when judged against the criteria above. We expect at least 75 per cent of these will be settled by 31 March 2008.

Our Action Plans will help us progress issues in accordance with Proposal 8 of the Review of Links with Large Business and the Litigation and Settlement Strategy. As issues progress we will review them critically and where it transpires that there is in fact no significant risk the issue will be agreed.

We want to reduce significantly the number of lower value issues taken up and have taken action to achieve this. But there will be occasions when we do take them forward, for example

- clear errors that can be settled with one phone call, letter or at a meeting, but we will not actively seek such risks
- work where there is either an agreed need for assurance work to ensure systems integrity or an absolute requirement for example in relation to Customs and International Trade or to Mutual Assistance requests
- issues where there are wider trade sector or tax or duty consequences that must be addressed (although these should generally have a high impact score). For example, a loss making business where a challenge to a significant element of the returned losses is appropriate, or where the tax at risk in an individual case may not be significant but the amount at stake from a number of similar cases may be, for instance where an avoidance scheme has been marketed to a number of different businesses.

Employer Compliance

Recommendation 6 of the Review of Links required Employer Compliance (EC) to move to a new risk based approach for undertaking EC Reviews. It also emphasised that EC Reviews must be more focused on specific issues and the time and costs taken to resolve them must be proportionate to the tax at stake.

We have redesigned our processes to put greater emphasis on risk assessment and the need for EC tax specialists to understand the business to perform an effective risk assessment.

We are encouraging our tax specialists to make much better use of information already held by HMRC as part of the risk assessment process and to undertake more research before contacting the customer.

We are also taking responsibility in LBS for the first time for all employer compliance work on LBS customers. This will help our CRMs resolve issues and integrate employer compliance work within the risk assessment process.

6. Our tax professionals

To build successful relationships with our customers we need a modern professional workforce that has

- technical knowledge that is appropriate to the complexity of our customers
- relationship building and management skills
- commercial understanding and an appreciation of customer service standards.

These skills, within an open and transparent relationship, will help us understand and trust our customers.

Our new training programme

We are developing a five year Tax Professionalism Programme that will raise the expertise of our tax professionals. We will be increasing our focus on commercial awareness, customer understanding and relationship management, as well as technical skills, to put our tax professionals on a level with private tax practitioners. The programme includes new, externally endorsed, qualifications and five days mandatory refresher training each year to ensure skills are kept up to date

Understanding our customers

To be able to understand and manage risk, and to deal with issues quickly and sensitively, we need to understand

- business strategic priorities and commercial imperatives
- how and why business decisions are made within a company
- the rationale for company structures, organisation and processes
- where tax fits within the overall business picture
- the audit process
- the business environment.

Strengthening commercial understanding is a fundamental part of our ambition and we are working with our business partners to create opportunities to develop our understanding of the commercial perspective. We have a number of initiatives underway, including secondments and shadowing, joint training and conference events, and trade sector liaison.

The customer experience

Central to our measures of success will be evidence that our customers' experience of doing business with us has improved over time. We will shortly be publishing the findings of external research across our large business customers that base lines their current experience. While customers are broadly happy with the **service** they receive there is room for improvement in their overall **experience**. The research helped us to identify five key pillars of a good relationship with HMRC

- taking commercial needs and context into account
- a co-operative relationship

- Collaboration within HMRC
- Certainty
- Consistency of treatment (across individual businesses and fairness across the system).

We are taking steps to enhance these aspects of our relationship, as we recognise that this will help our customers trust and understand our decisions during the risk assessment process.

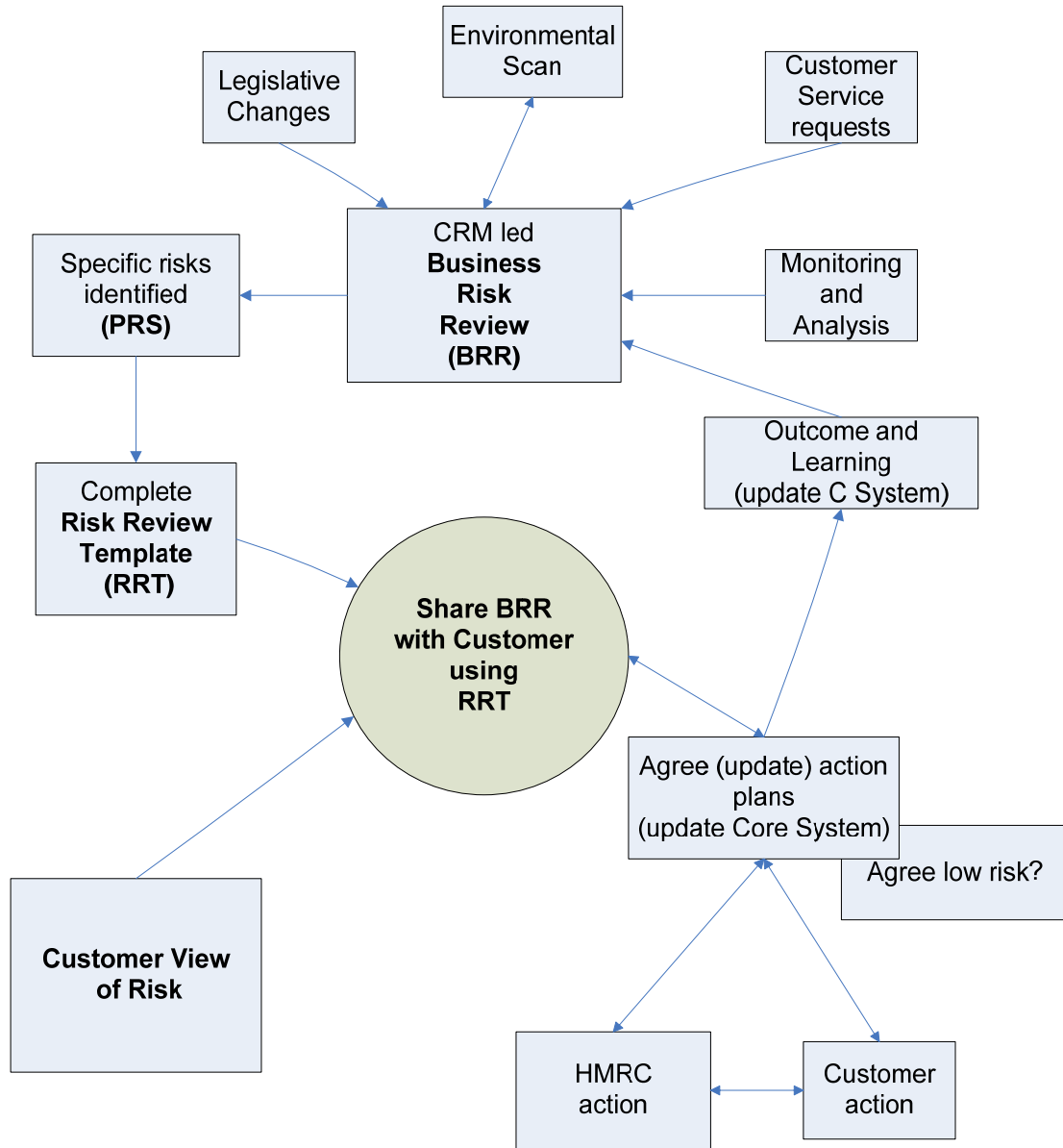
Tone of engagement

If we are to have open and trusting relationships with customers, we need to communicate clearly with them and listen to what they say to us. We want to engage openly with customers, spelling out exactly what we mean, for example, by 'low' and 'high' risk and what this means for customers.

We are committed to continuous review of how we are doing and invite customers to ask for clarification if we are not being clear, or if our thinking on an issue is not evident.

We also undertake to base our conversations and other communications on a key principle contained in this framework; that we believe that the majority of customers want to pay the right tax at the right time.

Annex A. Illustration of the risk management process



Annex B. The Business Overview Template

Date of Business Overview

Business name and lead sector name	<ul style="list-style-type: none"> Name of ultimate Parent Company Also state the trading name(s) if different Address of UK head office Principle business sector WEB site address(es)
Profile	<p>A brief overview to inform general understanding of the business activities to the extent they are not covered in the glossy consolidated accounts including</p> <ul style="list-style-type: none"> Recent history of the business Details of significant business strategies / developments Current principal activities and locations Details of current executive and non-executive Directors together with their respective shareholdings Details of <ul style="list-style-type: none"> number of PAYE payroll schemes number of employees any share schemes operated any PAYE Settlement Agreement (PSA) any dispensation agreements any formal approvals and agreements Commentary on accounting and tax payments <p>Provide links to receipts, accounting data etc (e.g. Quarterly Instalment Payments (QIPs), relevant Risk Assessment and Data Analysis Reports (RADAR) reports, VAT, Risk Analysis Tool (RAT), etc.)</p>
Structure	<p>Brief details of the business organisation including</p> <ul style="list-style-type: none"> Its structure If different, the operating and management set-up The main UK companies (provide links to reports from RADAR) and their functions Employee numbers An overview of the group's international aspects <p>Provide links to current structural charts, VAT registration details, PAYE scheme etc</p>
Finance	<p>Brief description of how the group is financed and how the arrangements impact the tax position.</p>
Commercial and Market information	<p>Brief summary of the commercial context as appropriate including</p> <ul style="list-style-type: none"> A general summary of current market trends Current and expected / possible business developments, including, for example, mergers, takeovers etc and Details of the business' principal competitors and major customers.
Compliance issues	<p>Details of significant or lasting importance, for example</p> <ul style="list-style-type: none"> its recent compliance history governance, internal controls and systems arrangements, including reviews undertaken and results significant settled issues and reviews

	<ul style="list-style-type: none"> • major rulings • clearances applied for (whether granted or refused) • decisions (e.g. Tribunals, Commissioners etc) • dispensations • facilitation measures within International Trade e.g. warehousing agreements • disclosed schemes and other avoidance <p>Provide links to current risk review template and more detail underlying risk assessment documentation.</p>
Contacts	Details of external contacts including the business' in-house tax teams and its advisors.
Other	<p>Contents discretionary.</p> <p>Suggestions include details of agreed administrative procedures (for example Group Payment Arrangements for Corporation Tax (CT), Large Payer Unit / Debt Management issues); Health and Safety Risk Assessment for the various entities within the business; etc</p>

Annex C. The Risk Review Template

The Risk Review Template is designed to achieve a consistent and visible standard across HMRC for sharing risk assessments with customers.

The template is intended to provide an overview of the sources of tax compliance risk across all taxes and duties and how these are being managed. There may be different risks for different taxes; how the differences are weighted will depend on the circumstances.

For example, a business that often uses planning devices to mitigate VAT liabilities may not use them in other taxes. We might still see that customer as higher risk regardless of the fact that the risk is concentrated in one area only. Conversely, it may be that while systems are relatively weaker in one area than in another, the differences are not significant enough to alter our view that overall the business is low risk. We will take a balanced view based on how we see the relative weaknesses and strengths in each regime and their relative impact on overall compliance.

The template is in four sections.

Section 1. Agenda

This acts as an introduction and provides an opportunity for us to summarise the areas of risk or issues that have already been identified as potentially significant. It will include points for clarification where the nature of the risk is unclear but where we have a fundamental uncertainty that impacts on our understanding of that customer's risk profile.

The template also allows us to outline any further work that may be necessary. There is no need for significant detail. The record should be concise and act as an agenda for further debate. Businesses are invited to add comments to the list and add any further risks they think should be reflected as well.

Section 2. Behavioural and Organisational Risk

In this section we will complete a rating of behavioural and organisational compliance risk in seven areas, and share this view with the customer to identify the areas where we agree or disagree.

We will take a view on whether the risk is major, significant, moderate or low in relation to 'contribution' and the three complicating factors that represent 'inherent risk'; and on the degree to which the customer manages the inherent risks in relation to its 'governance', 'tax strategy' and 'delivery'. This will be a matter of judgment based on available evidence and how the customer compares with similar businesses. We will always respect customer confidentiality and ensure that it is not possible for businesses to make inferences about other customers including direct competitors.

Assessment will be made in seven areas:

1. Contribution

- How do each of the six factors below affect the tax contribution a customer makes? How does the customer monitor this?
- Does this meet what we might expect from the level of its economic activity – for example, what can be learnt from the effective direct tax rates, levels and trends in VAT and other indirect tax payments, levels and trends in PAYE and National Insurance Contributions (NICs)?

- Is this comparable to similar customers within the Sector and do we understand the reasons for differences?

Complicating factors – levels of inherent risk:

2. Complexity

- Business structures may be complex for commercial or legal reasons. There may be uncertainty regarding the extent to which this complexity is tax-driven or related.
- How effectively does the customer manage the tax risk generated by the complexity in its business structures?
- How does the customer deal with the sheer number of employees, VAT groups, or the various taxes and duties?

3. Boundary

- Complexity can sometimes relate to cross-border issues, particularly transactions with connected parties, but might also involve joint ventures, corporate partnerships, associated businesses, and connected party matters in the UK.
- How effectively does the customer manage its global exposure?
- How does it deal with issues of transfer pricing, residence, off-shoring, controlled foreign companies, foreign taxes and import and export duties?

4. Change

- The nature of changes and the pace at which they occur can lead to significant uncertainties.
- Has there been or is there anticipated to be significant or regular change – principally acquisitions, disposals, mergers and strategic, organisational and financial restructuring?
- What is the level of staff continuity, or the impact of regular changes in key personnel?

Behavioural factors - how does the customer's management of risk impact on the inherent risks

5. Governance

- What is the customer's wider appetite for business risk and its attitude towards tax compliance risk management?
- What is the nature of the customer's relationship with HMRC – for example, how transparent is its approach to tax compliance risk management; is information disclosed fully and openly?
- What are the reporting structures – what reports are required and made to the Board by the tax team? What are the relevant accountabilities, including Board oversight and ownership of the tax strategy?
- Is the tax function adequately resourced? How is compliance monitored?

6. Tax Strategy

- What is the customer's tax strategy? Is that strategy documented; does it cover all relevant taxes/duties? To what extent is tax planning articulated in that strategy; how does it impact upon decision-making?

- What is the customer's approach to tax planning and avoidance?
- What is the level and extent of 'bought in' and / or 'bespoke' tax planning schemes?
- Does the customer undertake aggressive tax planning?
- Are the customer's judgments about the application of tax law generally consistent with HMRC's views?
- What is the extent of Board level knowledge, support and accountability for tax planning that stretches the boundaries of Parliament's intent?

7. Delivery: -

- Are returns and declarations complete and made promptly?
- Are internal processes and systems, including accounting controls, robust and appropriately audited and monitored? Are they flexible enough to meet changing needs? Does the customer for example use accredited software?
- Are key staff appropriately qualified and trained? Are there adequate levels of supervision?

The CRM will then use this information to assess whether the customer can be seen as low risk.

The review may result in significant risk being identified, in terms of either the value or the impact of the issue. A risk with a relatively small economic value for the customer may have a wider impact on a tax or a business sector across HMRC that makes it significant. Compliance activity, driven through the risk assessment process, will therefore combine a mix of

- **assurance work** and deterrents, ensuring that tax risks are properly identified and appropriately managed
- **enabling activity**, to support businesses and make tax compliance more straightforward so that the overall proportion of tax paid voluntarily increases
- **interventions**, focused on closing any tax gaps that may be apparent.

Inherent risks

The inherent risk factors cannot, on their own, prevent a business from being seen as low risk.

Customers who score highly in the inherent **Complexity**, **Boundary** and **Change** risks can be seen as low risk if they are low risk on the behavioural characteristics.

Behavioural risk

For **Tax Strategy**, a rating of 'tends to increase or 'increases risk' prevents a customer from being low risk.

For **Governance** and **Delivery**, the CRM can still assess a customer who has one or more ratings of 'tends to increase or 'increases risk' as low risk. This is likely to be where the relationship is working well, the customer has been open, and any outstanding issues are subject to shared Action Plans. In these cases, the circumstances will be documented and the Sector Lead consulted before reaching agreement with the customer.

Contribution

A customer should be seen as low risk if the outcome of the Risk Review, as recorded in the Template, is the

- **Contribution** risk is 'low' and the **Governance, Tax Strategy** and **Delivery** risk are considered to be 'tends to reduce risk' or 'minimises risk' or
- **Contribution** risk is 'some risk' and the **Governance, Tax Strategy** and **Delivery** tends to be 'minimises risk'.

Future Developments

We are working with customers and their advisors to build and refine this framework so that it can be used by customers as part of their own governance arrangements encouraging transparency.

Section 3. Conclusion

This section provides an opportunity for supporting comment on the ratings and conclusions about the overall relationship. We accept we may disagree but the conclusions we reach about businesses will be shaped by how readily each customer shares its own view of the risks it presents and provides full information in support of the tax outcomes it is looking to achieve. A successful partnership between HMRC and their customers does not need to be based on agreement about everything. However, a successful partnership does need to be based upon openness and honesty. It does need to be based on trust.

Section 4. Outcomes / Action Plans

The final section of the template is for HMRC and business to record any agreed actions including timing and division of responsibility – and evidenced by action plans.

The Timing of Risk Reviews

The suggested timetable below is for guidance only and should be determined by the CRM in discussion with the customer and Tax Specialists (TS) / Audit Service Customer Manager.

The frequency of the Review for an LBS Customer will depend on whether we see it as low or higher risk. If we have a low risk relationship with the customer the review process will be applied on a two / three year cycle and in real time. For customers we see as higher risk an annual review maybe driven by the Corporation Tax (CT) Risk Assessment cycle.

1. TSs for each tax or duty to provide the appropriate update of details required to populate the Business Overview Template, collect information on risks arising within their specialist area. The Audit Service Customer Manager to provide information held on processes operated by the customer and comment on any system risks at the business.
2. When required by the CRM the lead TS for the relevant tax or duty is to then to prepare, based on their knowledge of the customer, a draft Risk Review

Summary template for their specific area of expertise and forward it to the CRM.

Suggested timescale: Four weeks in advance of any proposed internal Risk Assessment meeting

3. Risk information to be shared by all TSs and Audit Service Customer Manager – either at an internal Risk Assessment meeting with the CRM or, alternatively, via email to the CRM and other TSs if the CRM chooses not to have such a meeting (or the contributors cannot attend).
4. New risks to be identified, through cross-regime team discussion, where appropriate. CRM to collect draft Risk Review Summary templates.
5. CRM to collate risk information relating to each tax or duty (including any new risks identified) and produce a draft Consolidated Risk Review Summary template.

Suggested timescale: Within two weeks following the internal Risk Assessment meeting or emails, circulating the completed templates

6. Draft Consolidated Risk Review Summary Template to be circulated electronically by the CRM to each Tax Specialist and the Audit Service Customer Manager for further comment, as appropriate, and agreement of contents and overall risk markings.

Suggested timescale: Within two weeks following the internal Risk Assessment meeting or emails, circulating the completed templates

7. Draft Consolidated Risk Review Summary Templates to be returned electronically by the TSs and the Audit Service Customer Manager, following review, to the CRM. CRM to update template, as appropriate.

Suggested timescale: Within two weeks following receipt of Draft Consolidated template from CRM

8. CRM to advise Sector Leader that Consolidated Risk Review Summary template has been completed following input from **all** TSs and the Audit Service Customer Manager assigned to the Business.

Suggested timescale: To be determined by the Sector Leader - for example, on finalisation of the Consolidated Risk Review Summary template.

9. CRM to share template and overall risk rating with the Business.

Frequency will be determined by level of risk.

Where appropriate, CRM to develop an Action plan with the Business.

Annex C (continued)
Risk Review Summary Template

Section 1 Agenda		Risk Evaluation at (date.....)			
Introduction:					
<ul style="list-style-type: none"> • Risk assessment carried out (e.g. returns examined /systems reviewed) • Risk assessment planned • Any other important work in progress and hot topics relevant to the business 					
Systems and processes:					
<ul style="list-style-type: none"> • Key risks identified • Points for clarification, further work necessary or possible action <p>Businesses should be given the opportunity to comment on the template in advance of the risk review meeting and to add any comments and further risks.</p>					
Issues / transactions:					
<ul style="list-style-type: none"> • Key issues identified, • Points for clarification, further work necessary or possible action. <p>Businesses should be given the opportunity to comment on the template in advance of the risk review meeting and to add any comments and further risks.</p>					
Section 2 Behavioural and Organisational Risk:					
Compliance teams should mark the appropriate box; X. Ratings should be shared with the business before the risk review meeting. Where the business disagrees with the rating they should be given the opportunity to mark the box they consider is appropriate, Y. Any comments on the ratings should be added below.					
A.CONTRIBUTION – How do the factors in B and C impact on the customer’s tax contribution?					
	Level of Risk	Major	Significant	Moderate	Low
(i) CONTRIBUTION - To what extent are there unexplained tax performance or payment variations, trends or issues?					
B. COMPLICATING FACTORS – What is the level of inherent risk?					
(i) COMPLEXITY – What is the potential for risk in the size, scope and depth of business or tax interests?					
(ii). BOUNDARY – What is the level of complexity of international structures, financing and connected party issues?					
(iii). CHANGE – What is the degree and pace of change affecting the business and its tax obligations?					
C. APPROACH TO COMPLIANCE – How does the customer’s management impact on the inherent risk?					
	Impact	Increases risk	Tends to increase risk	Tends to reduce risk	Minimises risk
(i). GOVERNANCE – Customer’s management of risk and accountabilities, openness and cooperation					
(ii). TAX STRATEGY – Customer’s use of tax planning and extent to which customer’s judgements likely to match HMRC views					
(iii). DELIVERY – Customer’s ability to deliver right tax at right time through, processes, systems and skills					
Section 3 – Conclusion: What does the evidence lead you to conclude about the overall relationship? Does the business agree with the conclusion? Record any disagreement.					

Section 4. Outcomes / Action Plans: Record action agreed including timing and division of responsibility.

Annex D - Business Risk Review - Assessment Indicators

These indicators are intended as guidance to help consistent assessment. The indicators are an aide memoire and are not to be used as a check list. The indicators are still in development and will be refined as our understanding of their impact and worth develops.

1. CONTRIBUTION: How do the factors in complexity, boundary, change, governance, tax strategy and delivery impact on the customer's tax/duty contribution?	
Risk Definition	Comments
Major Risk	<ul style="list-style-type: none"> the trend of receipts shows a significant falling pattern in one or more tax regimes with no clear reason significant divergence of taxable profit levels compared to commercial profits performance is significantly out of line with similar businesses within the sector.
Significant Risk	<ul style="list-style-type: none"> fluctuating level of receipts and/or profit outside of usual market trends poor comparative performance of taxable profit levels compared to commercial profits performance is often out of line with similar businesses within the sector.
Moderate Risk	<ul style="list-style-type: none"> occasional unexplained fluctuations in receipts and/or profits; some fluctuations in taxable profits in one or more taxes performance is occasionally out of line with similar businesses within the sector.
Low Risk	<ul style="list-style-type: none"> UK Corporation Tax (CT) or Income Tax (IT) profits broadly matching sector trends and effective tax rates understood. Participation in an oil field which is low risk in the context of Petroleum Revenue Tax e.g. no significant issues concerning (a) oil or gas valuation, (b) field cost allocation (c) complex tariffing arrangements, or (d) contentious hydrocarbon accounting systems or blended oil issues. Excise and International Trade activity broadly in line with commercial expectations and regime norms e.g. exports of tobacco or alcohol to countries in line with likely consumption in those countries. VAT declarations comparative for both for the individual VAT registration and with that business's position in its sector. PAYE and NICs receipts in line with expectations. No evidence that customer has failed to meet its statutory obligations.

2. COMPLEXITY: What is the potential risk in the size, scope and depth of business or tax interests?

Risk Definition	Comments
Major Risk	<ul style="list-style-type: none"> • the business operates within a highly complex structure but has no clear strategy or procedures to ensure completeness or best practice arrangements • highly complex tax issues are considered on an ad hoc basis requiring numerous transaction rulings • high degree of complex schemes e.g. PAYE, partial exemption etc that require significant HMRC input • very high tax throughputs in the number of different tax regimes.
Significant Risk	<ul style="list-style-type: none"> • the business operates within a highly complex structure; a clear strategy is in place that is generally adhered to, though frequent errors arise • high degree of complex issues that occasionally result in errors; • numerous complex issues that require some degree of HMRC intervention • high tax throughputs in one or more of the tax regimes.
Moderate Risk	<ul style="list-style-type: none"> • the business operates within a complex structure • a clear strategy is in place though some errors arise • complex issues give rise to occasional errors that are then rectified • significant tax throughputs in one or more tax regimes.
Low Risk	<ul style="list-style-type: none"> • the business operates in a well defined and organised structure; • clear procedures are in place supported by instructions that are adhered to • some complex tax issues arise but these are handled well in close consultation and with the agreement of HMRC • any infrequent errors that do arise are fully disclosed and rectified.

3. BOUNDARY: What is the level of complexity of international structures, financing and connected party issues?

Risk Definition	Comments
Major Risk	<ul style="list-style-type: none"> • foreign owned business and lack of knowledge or clarity around the global business interests • UK business with foreign owned entities within the business • complex and diverse business structure with major connected party interests and activity • complex transfer pricing transactions • extensive involvement with tax havens • UK based business using offshore entities with tax avoidance as the driver.
Significant Risk	<ul style="list-style-type: none"> • diverse business structure, with significant connected party activity (e.g. partnerships, joint ventures) • multiple transfer pricing transactions • regular involvement with tax havens.
Moderate Risk	<ul style="list-style-type: none"> • foreign owned business but some knowledge or clarity around the global business interests • simple business structure with some connected party interests (e.g. partnerships, joint ventures) • some offshore entities, associates and payrolls • some less complex transfer pricing transactions • some involvement with tax havens.
Low Risk	<ul style="list-style-type: none"> • UK based business customer as are all entities, associates and payrolls • simple business structure with no connected parties • no transfer pricing transactions • no involvement with tax havens.

4. CHANGE: What is the degree and pace of change affecting the business and its tax compliance?

Risk Definition	Comments
Major Risk	<ul style="list-style-type: none"> • numerous acquisitions and disposals (including international), with significant tax implications • no strategy for change management exists • constant product/service change turnover exists, affecting liability, agreements, approvals and partial exemptions etc; • routinely reacts to industry and commercial or other pressures with no consideration of tax consequences
Significant Risk	<ul style="list-style-type: none"> • regular acquisitions and disposals (including international), with significant tax implications: • strategy for change management exists but is ineffectively deployed • significant product/service change turnover exists, affecting liability, agreements, approvals and partial exemptions etc; • often reacts to industry, commercial or other pressures with no consideration of tax consequences.
Moderate Risk	<ul style="list-style-type: none"> • infrequent acquisitions and disposals, with some consideration of tax consequences • strategy for change management exists but with some evidence of inadequate deployment • frequent product/service change turnover exists, limited effect on liability, agreements, approvals • occasionally reacts to industry and commercial or other pressures with no consideration of tax consequences.
Low Risk	<ul style="list-style-type: none"> • have robust strategy and proven deployment of handling change in real time, embracing all tax/duty consequences • low level of business change affecting tax obligations; • infrequent product/service change turnover, with simple liability/tax consequences • takes account of tax consequences when reacting to industry and commercial and other pressures.

5. GOVERNANCE: Customer's management of tax compliance risk, openness and co-operation.	
Risk Definition	Comments
Increases Risk	<ul style="list-style-type: none"> • tax strategy un-stated or unclear • accountabilities and authorities unclear and or Board unsighted on significant tax issues • limited co-operation in identifying and resolving issues, sharing information or de-risking systems or processes • habitually requires the use of information powers to provide information relevant to tax • no evidence of commitment to build a trusting partnership based on an open, transparent and meaningful dialogue.
Tends to Increase Risk	<ul style="list-style-type: none"> • tax strategy incomplete, for example it doesn't cover all relevant taxes and duties or tax planning is not considered • decision making not in accordance with accountabilities or authorities • sometimes necessary to use information powers to obtain relevant information • limited sharing of information.
Tends to Reduce Risk	<ul style="list-style-type: none"> • tax strategy generally applied in practice • accountabilities and governance generally applied • occasional failures tend to be identified and corrected • HMRC has adequate contact with the customer.
Minimises Risk	<ul style="list-style-type: none"> • We have a good understanding of the business and how it manages tax compliance risk • early disclosure of significant compliance issues and uncertainties • promptly provides full, accurate, and helpful answers to HMRC queries and discloses irregularities identified • is aware of the obligations it may have under a wide range of taxes and duties, seeks assistance as necessary and provides appropriate resources to deal with those obligations • ensures that procedures are such that judgments are properly informed and issues considered by skilled professionals taking advice as required from tax, legal or other advisors and from HMRC • has a compliance record suggesting that its tax judgments will normally match those of HMRC.

6. TAX STRATEGY: Customer's use of tax planning, motives, openness and co-operation.

Risk Definition	Comments
Increases Risk	<ul style="list-style-type: none"> • heavily involved in tax planning with no commercial context; • significant use of loopholes or anomalies in the law to minimise taxes or duties • frequent tax planning that requires disclosure to HMRC or innovative interpretation of tax law • habitually requires the use of information powers to provide documentation, or to obtain relevant data • expect normally to choose an analysis because it has the most tax-advantageous potential outcome, or • regularly submits requests for clearances or makes voluntary disclosures which are not in accordance with the guidance • involved in supplying or involved with grey markets or illicit trades.
Tends to Increase Risk	<ul style="list-style-type: none"> • regularly involved in tax planning with no commercial context • regular use of loopholes or anomalies in the law to minimise taxes or duties • occasional tax planning that requires disclosure to HMRC or innovative interpretation of tax law • sometimes necessary to use information powers to obtain relevant data, limited sharing of data • sometimes will choose an analysis because it has the most tax-advantageous potential outcome, or • sometimes submits voluntary disclosures or requests for clearances which are not in accordance with the guidance.
Tends to Reduce Risk	<ul style="list-style-type: none"> • Is not involved in tax planning with no commercial context; • Makes full disclosure of any involvement in occasional innovative tax planning • Seeks a high level of assurance about the tax analysis of commercially driven transactions structured to achieve an intended tax outcome • has systems and processes to ensure that the tax planning process is correctly applied.
Minimises Risk	<ul style="list-style-type: none"> • Is aware of all tax planning activities and is not involved in tax planning with no commercial context. • We are told about occasional significant transactions that require disclosure to HMRC or involving innovative interpretation of tax law. • There are clear accountabilities up to and including the Board for the management of tax compliance risk and tax planning. • Ensures that all tax planning, and not just that statutorily required under the Disclosure of Tax Avoidance Schemes, is disclosed to HMRC and that that there is full transparency and disclosure of any legal uncertainty. • Ensures that the business is not supplying or involved with grey markets or illicit trades

7. DELIVERY: Customer's ability to deliver right tax through systems, processes and skills.	
Risk Definition	Comments
Increases Risk	<ul style="list-style-type: none"> • History of regular and significant mis-declarations or late declaration or payments of tax in a number of tax regimes • mis-directions have a variety of causes and new causes are a regular feature • systems and/or processes have unresolved weaknesses or require constant intervention • tax teams poorly supported or under resourced both in terms of numbers and adequate skills • highly complicated or poor organisational and systems interfaces.
Tends to Increase Risk	<ul style="list-style-type: none"> • Significant mis-declarations of tax arise periodically, in one or more tax regimes: • system controls are in place but are inflexible and poorly managed • patchy history of making returns and payments on time; • key members of staff inexperienced or under skilled • complicated organisational or systems interfaces give rise to issues or require periodic intervention.
Tends to Reduce Risk	<ul style="list-style-type: none"> • Makes infrequent mistakes which lead to mis-declarations of tax or failure to make returns and payments on time • system controls are properly applied and normally acted upon as necessary • staff experience and skill levels are adequate and mostly stable; • most staff are able to identify organisational or systems issues and initiate corrective action.
Minimises Risk	<ul style="list-style-type: none"> • A history of accurate and timely returns, declarations, claims and payments across taxes and duties. • Records systems and procedures are clear, robust, readily auditable and tax-sensitive and deliver the right taxes and duties at the right time • Staff are skilled and adequately supervised to assure integrity where the use of judgement is required. • Accredited and/or approved software is used – especially where required for Excise and International Trade regimes. • Have proper and sufficient controls and clear audit trails in place to manage interfaces between systems.

Annex E - Illustrations and examples

These examples are hypothetical. There is no intention that they resemble real customers or particular sets of real circumstances. The examples are to stimulate discussion as an aide to raise shared understanding and promote consistency. We would welcome other examples that illustrate aspects of risks to tax compliance.

Example 1: Low Risk Relationship

Business A is a FTSE 100 group. It pays corporation tax, employment taxes and landfill tax. It receives repayment of VAT. Its risk ratings are as follows:

Contribution = Low Risk

The CT profits are in line with sector trends and the effective tax rate is understood. Repayments of VAT are as expected for a business of this type in this sector and there are no unexplained variations in the pattern of employment tax receipts.

Complexity = Low Risk

There are 20 companies in the group and the role and contribution of each company is clearly understood. There is one VAT registration. There are two PAYE schemes both dealt with by the same local service office.

In recent years any complex issues arising have been discussed with HMRC before returns are submitted.

Boundary = Low Risk

All companies in the group are UK tax resident and there are no cross border transactions which carry direct tax risk.

Change = Low Risk

There are regular acquisitions into the group as the business has a policy of growing by acquiring businesses in Regions where it previously had no presence. The tax consequences of the acquisitions are discussed with HMRC pre-filing.

Governance = Minimises Risk

There are clear accountabilities to Board level for tax matters. Filing is on time and accurate. Group tax is adequately resourced and skilled and when required advice is obtained from external advisors and shared with HMRC. A recent PAYE audit gave assurance that processes were sound and administered well.

Tax Strategy = Minimises Risk

Areas of uncertainty are fully disclosed and discussed with HMRC pre-filing. The group does not engage in contrived tax planning arrangements.

Delivery = Minimises Risk

Returns are accurate and filed on time. QIPs are accurate and any unexpected variations in payments are explained to HMRC. Previous audits have concluded that systems and procedures are robust.

Conclusion: Overall Risk Rating – Low Risk

This is a low risk business across all regimes. There is a very good level of engagement with HMRC and no indication that this is likely to change in the immediate future.

Example 2: A Customer Carrying Significant Risk

Business B is a FTSE 100 group with a foreign parent. It has a global presence and carries out R&D, manufacturing and distribution in the UK. It pays employment taxes and has some international trade and excise authorisations. It does not pay corporation tax. Its risk ratings are as follows:

Contribution = Major Risk

The group does not pay CT despite there being commercial profits year on year. There are employment taxes risks associated with share schemes and ex-pat arrangements. There are indications of attempts to gain cash flow advantages in VAT payments and repayments.

Complexity = Low Risk

The UK group structure is straightforward with most activity being conducted through one company

Boundary = Major Risk

This is a foreign owned business with several offshore entities in havens used to facilitate UK CT avoidance. There are a number of transfer pricing transactions, both commercial and financial, and intellectual property has been moved out of the UK.

There are regular movements of senior staff in and out of the UK on secondments.

Change = Low Risk

The group is not active regarding acquisitions and disposals in the UK and the core activities of the group have not changed.

Governance = Tends to Increase Risk

The group is unwilling to share its tax strategy with HMRC. It is not unusual for information powers to be used in order to obtain data and progress enquiries. There is limited engagement with HMRC on direct tax issues outwith a formal enquiry.

Tax Strategy = Increases Risk

The business engages in aggressive tax planning to eliminate any CT liability. Evidence of highly artificial arrangements being used involving the offshore entities. Ongoing PAYE audit has identified significant risks in ex-pats remuneration including dual contracts. Information powers have to be used to obtain the data underpinning the artificial arrangements.

Delivery = Minimises Risk

Group tax is well resourced and professionally qualified. Returns are filed on time and are accurate. There is no evidence of any weakness in internal systems and examination of internal documentation has demonstrated that there exists strong internal controls and audit trails.

Conclusion: Overall Risk Rating - Significant Risk

The continuing use of avoidance arrangements mean this customer will present a significant risk.

Example 3: A Complex Customer with a Low Risk Relationship

Business C is a FTSE 100 group with a foreign parent. It conducts business globally. It pays CT, VAT and employment taxes. Its risk ratings are as follows:

Contribution = Low Risk

UK profits are in line with what we would expect after DTR and UK profits are in line with the share of global profits we would expect. VAT payments are consistent and employment tax receipts are as expected.

Complexity = Moderate Risk

There is a complex structure in place and the underlying business is often complex and cutting edge. Issues are discussed with HMRC openly and before filing. Few errors arise as a consequence of complexity because of the application of appropriate resources to the issues.

It is partially exempt for VAT.

Boundary = Moderate Risk

This is a foreign owned group with global operations some in low tax rate jurisdictions. There are movements of senior personnel in and out of the UK however there is no evidence of avoidance in this area. Although the global business structure is organised on different lines to the legal entity reporting systems, these differences are well managed and reconciled. While transfer pricing enquiries have been undertaken in the past there are no current enquiries and historical evidence suggests the group does not use its global structure for UK avoidance purposes. The group notify HMRC of any amendments and updates to their internal transfer pricing policy

Change = Moderate Risk

There are regular disposals of subsidiaries and interests in partnerships. These are identified pre-filing and tax issues arising are also generally resolved pre-filing. The internal considerations of the tax consequences of such disposals have been seen to be reliable.

Governance = Minimises Risk

The tax strategy has been shared with HMRC and is seen to be applied. Full disclosure is made of any potentially contentious issues as they arise and there is good evidence that group tax is engaged with the wider business activities so that tax decisions are well informed and soundly based.

Tax Strategy = Tends to Reduce Risk

The business does undertake some tax planning but any arrangements are fully disclosed to HMRC with all relevant details being provided. The planning is not aggressive and the business is careful to ensure such planning is effective and has a demonstrable business purpose. Its activities in this area are commensurate with the norm in the financial sector.

The business does not enter into employment tax planning schemes.

Delivery = Minimises Risk

Returns are filed and tax is paid on time. The returns are accurate. Group tax is well resourced and skilled and it has been demonstrated that internal controls are sound with clear audit trails.

Conclusion: Overall Risk Rating - Low Risk

Although a complex group operating in a complex sector the tax strategy, openness, and quality of governance and delivery enable this group to be considered low risk.

Example 4: A Straightforward but Significant Risk Customer

Business D is a FTSE 100 group which operates solely in the UK. It pays CT, employment taxes and VAT. Its risk ratings are as follows:

Contribution = Low Risk

Effective tax rates are understood and the level of profits is commensurate with similar businesses in the same sector. Vat receipts/repayments are in line with expectations.

Complexity = Moderate Risk

There is a simple group structure and the business operates in a mature and well understood sector. Complex tax issues are rare however there is considerable VAT throughput and errors occur.

Boundary = Low Risk

This is a UK business with a simple structure and no international transactions, other than supplies of trading stock from unconnected parties, and no complex treasury issues.

Change = Low Risk

There have been no acquisitions or disposals in recent years. The core business has remained unchanged for many years.

Governance = Tends to Increase Risk

The tax strategy is unclear and the business has proved reluctant to share data other than by way of formal enquiries. Information powers have been used regularly to obtain relevant data.

Tax Strategy = Tends to Reduce Risk

There is no evidence of the use of avoidance schemes. Information powers are often used to obtain relevant data on tax technical issues under enquiry but the business has demonstrated a conservative approach to tax planning.

Delivery = Increases Risk

There are errors in computations, returns are occasionally late and there have been numerous mis-declarations of VAT. Employment tax dispensations and PSAs have not been properly applied and a recent PAYE audit established numerous errors and significant failure of systems. Voluntary disclosures are regularly found to be inaccurate or incomplete

Group tax is poorly resourced and has proved reluctant to make decisions or progress enquiries without the use of information powers by HMRC.

Conclusion: Overall Risk Rating – Significant Risk

Although this is a not a complex business and it does not engage in tax avoidance it carries a significant risk because of its poor governance and poor systems.

Example 5: A Business Which Cannot be Categorised Low Risk

The business is a UK FTSE 100 group with global profits of several billion pound. It employs lots of staff in the UK and overseas. Its risk ratings are as follows:

Contribution = Low Risk

The UK CT profits are broadly in line with sector trends and the effective tax rate is understood with the variance from the expected rate being explained in the main by accelerated depreciation and certain one off transactions which are fully disclosed. VAT declarations are consistent with what is expected from a business in this sector but there are ongoing issues arising from the business being partially exempt. There is nothing currently known to suggest planning reduces PAYE or NICs and receipts from employment taxes are in line with what is expected.

Complexity = Moderate Risk

This is a very large and complex multi national group with the full spectrum of complex company and partnership structures represented.

Boundary = Significant Risk

The group is a multi national and has been expanding rapidly worldwide. It has a presence in a number of low tax jurisdictions

It is engaged in a number of high value transactions with foreign parent counterparties in the financial sector.

Change = Some Risk

The business regularly acquires and disposes of business streams and subsidiary companies both within the United Kingdom and cross border. Significant transactions are disclosed pre-filing and it is the norm for dialogue to take place between the business and HMRC and such acquisitions and disposals have, to date, not proved to be high risk.

Governance = Tends to Reduce Risk

Significant compliance issues are disclosed in real time and the business regularly updates HMRC regarding specific developments which may have a bearing on effective tax rates or patterns of payments or repayments.

Enquiries are dealt with to agreed timetables and exchanges are generally comprehensive and accurate. Group tax is well resourced and the staff engaged in technical work appropriately qualified and well advised. There is a clear escalation route for major issues to Board level and the Head of Group Tax is line managed by the Finance Director. Internal governance procedures for large value transactions are clearly understood and the audit documents are provided to HMRC.

Tax Strategy = Increases Risk

Tax planning is transparently disclosed to HMRC and legal uncertainty is highlighted. The business is involved in a range of cross border arbitrage transactions of great complexity. HMRC are informed about these pre-filing. It is not unusual for the analysis of the tax effect of these transactions to differ between the business and HMRC and so it has been the norm for Corporation Tax Self Assessment (CTSA) enquiries to be necessary.

The business is involved annually in a number of large value and complex leasing transactions as lessor. These are examined by way of post filing CTSA enquiries. The business will use bespoke planning when it judges the arrangements to be well grounded in statute albeit they are aware that HMRC will view the arrangement as, at best, giving an unintended tax result. The business is partially exempt and uses a number of arrangements with supplying traders or business customers to seek to reduce the amount of VAT being borne by the business. These arrangements are fully disclosed to HMRC.

Delivery = Tends to Reduce Risk

Returns are accurate and, in the main, timely. Any errors are small and delays in filing are explained and notified in advance of the due filing date. Quarterly payments are either in line with what is expected or variations are notified in advance and fully explained. The partial exemption method is regularly reviewed internally for assurance. Employment taxes and contributions are accurately returned and dispensations are complied with fully.

Conclusion: Overall Risk Rating - Significant Risk

The customer cannot be considered low risk across all tax streams. Although disclosure and co-operation with HMRC can be said to be excellent for direct tax the business does often take part in tax planning transactions which are innovative and which require significant investigation and analysis in order to

ascertain the degree of risk to HMRC. It is not unusual for the analysis of the business and that of HMRC to differ with respect to such transactions. In indirect tax the business's use of novel arrangements and structures with a view to reducing the VAT due under its partial exemption method give rise to significant risk to HMRC.

The business can be considered low risk across the employment tax stream. It is apparent that the level of disclosure and transparency across all tax regimes is either of a high standard or is improving markedly. However whilst this should enable HMRC to take assurance with regard to risk assessment it is clear that significant numbers of post return enquiries will be required on an ongoing basis because of the complexity of transactions entered into and the complexities and risks arising from the group's cross border activities and complex partial exemption position.

